

The legislative clerk read as follows:

A bill (S. 719) to rename the Armed Forces Reserve Center in Great Falls, Montana, the Captain John E. Moran and Captain William Wylie Galt Armed Forces Reserve Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 719) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF THE ARMED FORCES RESERVE CENTER IN GREAT FALLS, MONTANA, AS THE CAPTAIN JOHN E. MORAN AND CAPTAIN WILLIAM WYLIE GALT ARMED FORCES RESERVE CENTER.

(a) RENAMING.—The Armed Forces Reserve Center in Great Falls, Montana, shall hereafter be known and designated as the “Captain John E. Moran and Captain William Wylie Galt Armed Forces Reserve Center”.

(b) REFERENCES.—Any reference in any law, map, regulation, map, document, paper, other record of the United States to the facility referred to in subsection (a) shall be considered to be a reference to the Captain John E. Moran and Captain William Wylie Galt Armed Forces Reserve Center.

NATIONAL REHABILITATION COUNSELORS APPRECIATION DAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 401, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 401) designating March 22, 2016, as “National Rehabilitation Counselors Appreciation Day.”

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 401) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today’s RECORD under “Submitted Resolutions.”)

AUTHORIZING TESTIMONY, DOCUMENTARY PRODUCTION, AND REPRESENTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 402, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 402) to authorize testimony, documentary production, and representation in United States of America v. Chaka Fattah, Sr., et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, this resolution concerns a criminal case pending in the United States District Court for the Eastern District of Pennsylvania involving Congressman CHAKA FATTAH, Sr., and others, including an individual named Herbert Vederman. The Department of Justice is seeking trial testimony from Senator BOB CASEY about his office’s receipt of a letter of support from the Congressman regarding Mr. Vederman’s consideration for appointment to a high Federal office.

The government alleges that Congressman FATTAH conspired with Mr. Vederman to advocate for Mr. Vederman’s appointment in return for Mr. Vederman providing money and things of value to the Congressman.

The indictment does not allege that any action was taken in response to this advocacy, and Mr. Vederman did not receive a nomination for any Federal position. Senator CASEY is being called as a witness only because of the fact of his office’s receipt of this letter supporting Mr. Vederman.

Senator CASEY would like to cooperate with the government’s request for his appearance at trial. Accordingly, consistent with the rules of the Senate and Senate practice, the enclosed resolution would authorize Senator CASEY to testify and to produce documents at trial. The resolution would also authorize the Senate legal counsel to represent Senator CASEY in connection with his testimony.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 402) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today’s RECORD under “Submitted Resolutions.”)

ORDERS FOR THURSDAY, MARCH 17, 2016

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 17; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; further, that following leader remarks, the Senate be in a pe-

riod of morning business, with Senators permitted to speak therein for up to 10 minutes each, until 12:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of Senator LANKFORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

FILLING THE SUPREME COURT VACANCY

Mr. LANKFORD. Mr. President, upon waking this morning, like a lot of other people did, I put on the news. About midway through the morning, about 7 a.m., a bulletin came out that the President had selected a nominee for the Supreme Court. Newsworthy.

At about 7 a.m., the email came out that said: “I’ve made my decision.”

At 7:07 this morning, White House Legislative Affairs circulated a notification to all those folks on Capitol Hill, including our office, from President Obama that stated this fact: “We’ve reached out to every member of the Senate, who each have a responsibility to do their job and take this nomination just as seriously.”

Well, this Senator thought that was very interesting because we hadn’t received a notification.

At 7:14 a.m., 7 minutes later, the White House Legislative Affairs Office emailed my chief of staff with an attachment of the 7:07 a.m. email from the White House notifying that they had this. So when my counsel called over to the White House Counsel and said: You stated earlier this morning that you contacted our offices—“you have reached out to us” was the term—they clarified later in the morning: Well, that email we sent after we said we contacted you was really the contact that we meant to send earlier.

This was quite a morning for us. It is again the same doublespeak we received from the White House. When he said that they had reached out to all Members of the Senate, that actually means they had sent us an email after they had sent the American people an email saying they had made a decision. But even that email didn’t say who it was.

Here is the challenge. It is a constitutional responsibility here, and it is extremely important that all of this is done right. It is extremely important that article I, the legislative branch, and that article II, the White House, agree on a Supreme Court nominee because article I and article II select article III judges to the Supreme Court.

A month ago, the U.S. Senate—the Members of the majority party notified the White House and the American people that we wanted to follow the same

historical precedent that has been followed for decades, saying that in an election year, we would not appoint someone to the Supreme Court. This is not a new policy; it is a policy that has been around for a very long time. In fact, in 1968, when Democrats had the Senate and a Democrat, LBJ, was in the White House, the Democrat, LBJ, wanted to be able to appoint a Supreme Court nominee, and Democrats in the Senate blocked someone from their own party from putting up a Supreme Court nominee because it was an election year, and they held it. It has happened over and over again.

In fact, it has been interesting, because on this floor I heard numerous folks step up and say: This is unprecedented. This is new. This has never happened before.

The problem is that all of us know the history. It is the same history all of us look at.

The Washington Post this morning even put out a piece identifying this basic issue. They occasionally do what has been called the Pinocchio test, and this morning they identified multiple different Democratic Senators who have spoken on this floor saying things such as "Republican Members met behind closed doors to unilaterally decide, without any input from this committee, that this committee and the Senate as a whole will refuse to consider any nominee. It's a dereliction of our constitutional duty."

Another statement: "The Senate shall advise and consent by voting on that nominee. That is what the plain language of the Constitution requires."

Over and over again this has come up.

The Washington Post went back and researched and did an extensive piece detailing all the real history here of Supreme Court nominees, and they ended with this statement: "[But] the Senate majority can in effect do what it wants" to do, as it has historically, "unless it becomes politically uncomfortable. Democrats who suggest otherwise are simply telling supporters a politically convenient fairy tale."

The Washington Post gave the Democrats who made all these statements about the Republicans doing something unprecedented in shutting down this process a whopping three Pinocchios in their test in the Washington Post this morning.

This is not something new or radical; this is consistent. Quite frankly, the Constitution—article II, Section 2—sets up a 50/50 proposition for the selection of Supreme Court Justices. The White House has the first 50 percent to make that nomination, and the Senate has the second 50 percent in that we have what is called advice and consent, and that is choosing the time and person in the process. Is this the right time to do this nominee? Is this nominee the right person? That is advice and consent.

It is not new for the White House and the Senate to disagree on this. George

Washington couldn't even get some of his nominees through the very first Senate, and he personally came over to the Senate, bringing his nominee, and said: I want my nominee to have a hearing. And the very first Senate, with the very first President—the very first Senate sent George Washington away and said: We are not going to hear it today. It is the wrong time and maybe the wrong person. We haven't decided yet.

This is an ongoing process. This Senate has determined, as it has many times, that an election year is the wrong time to have a departing President choose a Supreme Court nominee.

As many folks have said over and over again, this is not only old history in the United States, it is recent history. At that time, Senator BIDEN, who was the chairman of the Judiciary Committee, said on this floor in 1992:

The Senate, too, Mr. President, must consider how it would respond to a Supreme Court vacancy that would occur in the full throes of an election year. It is my view that if the President goes the way of Presidents Fillmore and Johnson—

Referring to LBJ—

and presses an election year nomination, the Senate Judiciary Committee should seriously consider not scheduling confirmation hearings on the nomination until after the political campaign season is over.

It would be our pragmatic conclusion that once the political season is underway, and it is, action on a Supreme Court nomination must be put off until after the election campaign is over. That is what is fair to the nominee and is central to the process. Otherwise, it seems to me, Mr. President, we will be in deep trouble as an institution.

Others may fret that this approach would leave the Court with only eight members for some time, but as I see it, Mr. President, the cost of such a result, the need to reargue three or four cases that will divide the Justices four to four, are quite minor compared to the cost that a nominee, the President, the Senate, and the Nation would have to pay for what would assuredly be a bitter fight, no matter how good a person is nominated by the President, if that nomination were to take place in the next several weeks.

Even Senator REID in 2005 said:

The duties of the Senate are set forth in the U.S. Constitution. Nowhere in that document does it say the Senate has a duty to give Presidential appointees a vote.

This is not new; it has just become politically expedient to bring this up. It is not even new in the media. It was interesting to be able to see a comment in the New York Times from 1987 when the New York Times wrote an editorial about what happens if a President in his final term wants to be able to appoint a nominee with a Senate majority from the other party. Well, at that time in the previous election, the White House had a President who was a Republican, Ronald Reagan, and the Senate had changed over to the Democrats in the previous election. The New York Times wrote this about a Supreme Court selection process:

The President's supporters insisted vehemently that having won the 1984 election, he has every right to change the Court's direction. Yes, but the Democrats won the 1986

election regaining control of the Senate, and they have every right to resist.

That was true then for the New York Times, that is true now, and we will see if they stay consistent as a newspaper standing from the exact same principle decades later—not new, not different.

The fact is, the Supreme Court is still working, still hearing cases, still going through the arguments, and still releasing opinions. Nothing has changed over there. The work is still continuing in the U.S. Senate. We are still hearing legislation. We are voting on legislation. We voted on a confirmation this week to the Department of Education. We are still working through nominations. We are still working through legislation. Nothing has changed on that. The decision was made that this Senate will not move during this election year.

It is interesting. I had a telephone townhall this Monday with individuals across my State, with thousands of people on the line. We asked a simple question about what should happen in this process dealing with the Supreme Court—this is before a nominee was even announced—and 71 percent of the people on our calls said the next President and the American people should choose who the next Supreme Court Justice will be.

I will submit that we should allow the people to decide this, that when they decide the Presidential election this November, they are also determining the direction of the Supreme Court in the days ahead.

I don't want us to lose track of the basic facts here, but I also want us to stay focused. This Senate cannot get distracted with bitter fighting over something that we resolved a month ago and that will remain resolved. We are not going to move.

We have a lot of budget issues to deal with. We have appropriations bills that will come up in the days ahead. I would submit that one of the biggest things we can do in the Senate is to also reform the budget process, to stay focused on things that are really going to matter long term for us, because this issue with the Supreme Court is already resolved. We need to find ways to be able to eliminate the budget gimmicks that are in the budget process to get a long-term view, to make sure there is not this playing with the system in this 10-year window, and to deal with biennial budgeting to get a better prediction of where we are going in the days ahead. We need to find a way to stop government shutdowns and the constant threats of government shutdowns because they do nothing but hurt us. These are things we can work on and work on together to keep us on focus.

The Supreme Court issue is settled. It is not going to move. Let's find the things that we can agree on, that we can work on, and continue to work on those things together.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 5:44 p.m., adjourned until Thursday, March 17, 2016, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate:

SUPREME COURT OF THE UNITED STATES

MERRICK B. GARLAND, OF MARYLAND, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE ANTONIN SCALIA, DECEASED.